

Temporary & Contingent Workers

*Enforcing Existing Workplace Rights
and Promoting Responsible Staffing
Practices*

Day and Temporary Labor Services Act

- Regulates employment with “day and temporary labor service agency.”
- These agencies are “engaged in the business of employing day or temporary laborers to provide services, for a fee, to or for any third party client”
- Agencies must register with the Department of Labor.
- Illegal for client companies to use unregistered agencies.

Temp Staffing in Illinois

- 200 temporary staffing firms with over 1000 branch offices registered with the Illinois Department of Labor.
- About 540,000 Illinois temp workers in Illinois perform traditionally “blue collar” assignments.

(American Staffing Association, 2017).

DTLSA Requirements

Staffing Agency:

- Keeps records
- Provides “Right to Know” Employment and wage payment notices
- Makes wage payment to workers
- Liable for workers comp

Third Party Employer:

- Pays total wages and payroll taxes to staffing agency
- Jointly liable for wage and other violations

Prohibited Charges

- Transportation
- Background/credit checks and drug testing
- Check cashing
- Total deductions can't cause wage rate to fall below minimum

Permanent Job Placement

- Agency “shall endeavor” to place temp workers in permanent positions when there are vacancies.
- Agency “cannot restrict the right” of a temp worker to accept a permanent job with a client employer *but* can charge a limited fee. After 60 days, agency cannot charge conversion fee.
- Law says nothing about conversion fee when moving to another agency

Illinois Human Rights Act

- Prohibits discrimination in employment by employment agencies, including temp agencies.
- Sexual harassment is form of sex discrimination.
- Cannot make any employment decision on the basis of a worker or prospective workers' race, sex, national origin, or other protected category.

Enforcement

Violations of IDTLISA:

- Administrative process through Illinois Department of Labor. Registration fees and fines fund enforcement.
- Private right of action.

Violations of Illinois Human Rights Act:

- Complaints must be filed with IDHR or EEOC. Can go through administrative process or into court from there.

Staffing Agency Compliance - IL

Roosevelt University survey findings:

- 38% of respondents felt work was being assigned based on race and gender;
- Among African American respondents 72% were drug-tested, compared to 22% for other workers;
- 70% of respondents reported not receiving an employment notice;
- 75% of workers sent to a worksite, then turned away, did not receive 4 hours minimum “show up pay”;
- 46% feared retaliation if they were to speak out about workplace abuses.

Staffing Agency Compliance – Nat'l

2017 National Economic & Social Rights Initiative (NESRI) report, *Temporary Work, Permanent Abuse*, found:

- 22% of temp workers reported racial discrimination
- 74% experienced wage theft
- 84% experienced violations of health & safety rights
- 80% never had a temp job lead to direct hire position
- 47% experienced retaliation for complaints
- 6 years was average duration of work within the temp industry

Seal of Approval Components

Enforcement Scheme:

- Initial Registration
- Adherence to Code of Conduct which addresses discrimination, sexual harassment and conversion fees
- Compliance Enforcement
- Regulatory Benefits
- Community Enforcement Partnerships

Seal of Approval Components (2)

Market Incentives:

- Procurement preference
- Union shop preference
- Priority at job and hiring fairs?
- Funds for temp-to-perm hiring?

Best Practice Contract Terms

- Tracking and reporting of job assignments and discrimination complaints
- Agency can only charge “conversion fees” within time window
- Agencies cannot engage in “no hire” agreements with each other
- Contractual limits on fees charged

Questions? Discussion Items?